

REMARKS

In an Office Action mailed April 13, 2004, the Examiner noted a discrepancy relative to the designation of two cited references in an Information Disclosure Statement. Applicants agree with the Examiner's assessment of the documents relative to the title thereon and appreciate the careful scrutiny by the Examiner.

The Examiner has objected to Figure 8. Applicants have submitted herewith a better copy of the drawing sheet for Figure 8, which is in compliance with 37 CFR 1.84.

Finally, the Examiner rejected claims 15-19 as being anticipated by EP 0 233 704 to Burkhard, claims 15, 19-21, 23, 25-28, 32 and 34-37 as being anticipated by USP 5,087,253 to Cooper and claims 16-18, 22, 24, 29-31 and 33 as being made obvious over Cooper. Applicants respectfully disagree for the reasons stated below.

Claims 15-27 and 51:

The Examiner rejected claim 15 as being anticipated by Burkhard and Cooper. Claim 15 now recites "a fastening member comprising at least two independently moveable tab members each having an engagement portion releasably and refastenably engaging said body panel, wherein said tab members *extend laterally inward in the same direction from one of said side edges* of said body panel."

In contrast, although Burkhard discloses two independent refastenable tapes 55, those tapes do not extend laterally inward in the same direction from one of a pair of opposite side edges of the body panel. Rather, a single tape 55 extends from *each* of the opposite sides (Col. 10, lines 1-55; Fig. 1). As such, the tapes of Burkhard do not provide the advantages of allowing "the user to independently control both the waist region and the leg region of the front body panel, while also providing a pant-like fit," and further provide the user with the opportunity to "adjust one or the other of the engagement portions without the garment coming undone" (Specification at 4, lines 18-22; at 31, lines 19-23).

Applicants note that Cooper also does not disclose or suggest the limitations of

claim 15. First, as with Burkhard, Cooper discloses in Fig. 4 (cited by the Examiner) a *single* fastener extending from each of the opposite sides of the body panel, not at least two as recited in claim 15. On this point, Applicants note that the fasteners 70, 72 engage respectively a receiving fastener 74, 76 (Col. 7, lines 29-43). Accordingly, to the extent that pairs of fasteners 72/76 or 70/74 are considered the independently moveable tab members extending from one of the sides, Applicants note that the fasteners 72/76 and 70/74 engage each other, rather “releasably and refastenably engaging said body panel” as recited in claim 15.

Conversely, to the extent that one of the fastener portions 72/76 or 70/74 on each side is considered part of the body panel, then Cooper fails to disclose at least a pair of independently moveable tab members on that side. Either way, Cooper fails to disclose or suggest the limitations of claim 15. Applicants further note that with respect to FIGS. 16 and 17 of Cooper, which were not relied upon by the Examiner in her rejection, the fasteners 266/268 and 270/272 are not “offset in said longitudinal direction” as recited in claim 15.

Finally, Burkhard discloses that the free edge of the fastening member is positioned *outboard* of the location of fixed securement, not inward as recited in claim 51. Likewise, Cooper does not teach any inwardly positioned free edge of a tab member. Support for these claims is found throughout the specification and drawings (see e.g., Specification at 29, lines 6-9; Figs. 9-11).

For at least the above-noted reasons, Burkhard and Cooper both fail to disclose or suggest all of the limitations of claim 15. Accordingly, Claim 15, and claims 16-27 and new claim 51 depending therefrom, should be passed to allowance.

Claims 28-37 and 52:

The Examiner rejected claim 28 as being anticipated by Cooper. Claim 28 is patentable for at least the same reasons set forth above with respect to claim 15. Accordingly, claim 28, and claims 29-37 and 52 depending therefrom, are allowable and notice to that effect is earnestly solicited.

Conclusion:

Applicants previously paid for 36 claims, including three (3) independent claims. After this amendment, this application has 25 claims, including two (2) independent claims. Accordingly, no additional fees are believed to be due. Should any additional fees be deemed appropriate, the Commissioner is hereby authorized to charge payment of any fees associated with this communication to Deposit Account No. 23-1925.

If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

Dated: July 12, 2004 By:



Andrew D. Stover
Reg. No. 38,629
Attorney for Applicants

BRINKS HOFER GILSON & LIONE LTD.
Post Office Box 10395
Chicago, Illinois 60610
(312) 321-4200